

E.D.Pa. AO Pro Se 14 (Rev. 04/18) Complaint for Violation of Civil Rights

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

Case No.

(to be filled in by the Clerk's Office)

Ishmael A Burk

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

M S Budd

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

See Attachments

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

The Clerk will not file a civil complaint unless the person seeking relief pays the entire filing fee (currently \$350) and an administrative fee (currently \$50) in advance, or the person applies for and is granted in forma pauperis status pursuant to 28 U.S.C. § 1915. A prisoner who seeks to proceed in forma pauperis must submit to the Clerk (1) a completed affidavit of poverty and (2) a copy of the trust fund account statement for the prisoner for the six month period immediately preceding the filing of the complaint, obtained from and certified as correct by the appropriate official of each prison at which the prisoner is or was confined for the preceding six months. See 28 U.S.C. § 1915(a)(2).

If the Judge enters an order granting a prisoner's application to proceed in forma pauperis, then the order will assess the filing fee (currently \$350) against the prisoner and collect the fee by directing the agency having custody of the prisoner to deduct an initial partial filing fee equal to 20% of the greater of the average monthly deposits to the prison account or the average monthly balance in the prison account for the six-month period immediately preceding the filing of the complaint, as well as monthly installment payments equal to 20% of the preceding month's income credited to the account for each month that the balance of the account exceeds \$10.00, until the entire filing fee has been paid. See 28 U.S.C. § 1915(b). A prisoner who is granted leave to proceed in forma pauperis is obligated to pay the entire filing fee regardless of the outcome of the proceeding, and is not entitled to the return of any payments made toward the fee.

1	Dr Cassidy
2	MS Budd
3	John Doe
4	John Doe
5	Lt (John Doe)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Ishmael A BurkAll other names by which
you have been known:

ID Number

NH0208

Current Institution

Sci Chester

Address

500 E 4th streetChester

City

PA19013

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

MS BuddJob or Title (*if known*)Warden

Shield Number

NA

Employer

Bucks County Correctional Facility

Address

DoylesTown

City

PA

State

Zip Code

 Individual capacity Official capacity

Defendant No. 2

Name

John DoeJob or Title (*if known*)Correction Officer

Shield Number

NA

Employer

Bucks County Correctional Facility

Address

DoylesTown

City

PA

State

NA

Zip Code

 Individual capacity Official capacity

Defendant No. 3

Name
 Job or Title (if known)
 Shield Number
 Employer
 Address

Dr Cassidy
mental health doctor
NA
Bucks County Correctional Facility

Doylestown *PA* *NA*
 City State Zip Code
 Individual capacity Official capacity

Defendant No. 4

Name
 Job or Title (if known)
 Shield Number
 Employer
 Address

John Doe
Correctional facility
NA
Bucks County Correctional Facility
NA

Doylestown *PA* *NA*
 City State Zip Code
 Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

I was given the wrong medication and was forced to take it by being strapped to the restraint chair my water was turned off for about 2 months I also was mentally and emotionally hurt

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Defendant 5 - John Doe Lt
BUCKS County Corrections Facility
Doylestown PA
NA

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attachments

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee
 Civilly committed detainee
 Immigration detainee
 Convicted and sentenced state prisoner
 Convicted and sentenced federal prisoner
 Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Feb 2018 - Jan 2017 Through 2019

D. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

See Attachments

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

My Mental Health is not right I suffer from major headach suffer from spinal injury. My arms interlock so I cant move my finger. Also scoliosis in my back

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I have to get surgery on my back and am seeking money for my mental health treatment

\$ 180,000

Q. What happened to you? - I was prescribed the wrong medication by Dr Cassidy. She prescribed me (Lexapro) taking the medication I experienced head aches and hallucinations. When I would refuse to take my medication (John Doe) Correctional officer followed by (John Doe) Correctional officer would turn my water off and (John Doe) Correctional officer would strap me to the restraint chair for hours at a time and up to day's at a time. Dr Cassidy and Ms Budd would direct (John Doe) Correctional officer to strap me down to the bed in restraints and force the medication in my mouth. Lt (John Doe) would come to the block and tell (John Doe) Correctional officer to take away my cloths if I refused my medications. This happen through out the months I was at Buck County correctional facility. Through written request to Ms Budd I would tell her about my medication and the med's Dr Cassidy prescribed to me which was the wrong one's Lexapro. I told her about the hallucinations I was having about how I was gaining weight and the behavior of both correctional officers how I was forced to take the Lexapro. After getting her response back I wrote a grievance and it was denied. Not only do I suffer from hallucination but from back injury from the hard bed's. (John Doe) Correctional officer and Lt (John Doe) would

take away my mattress, shoes bed cover's, & I refused my medications. Dr Cassidy continued to withhold my medical records from Smith Field to see why I was given Lexipro for medication. John Doe (correctional officer) would deny me access to medical treatment when I was put in a restraint chair my arms and legs would hurt from the chair (restraint chair) due to on going mental health issues I experience daily headaches hallucinations and diabetes. Dr Cassidy ignored me completely when I told her of the side effects of Lexipro and was prescribed by Dr Cassidy. Also with the refusal of my medication I was placed in R/HU in the restraint chair directed by Dr Cassidy and Ms Budd. Lt (John Doe) would tell (John Doe) correctional officer not to feed me and I didn't receive food for about a month when I was in R/HU My cell water was turned off by Lt John Doe for a month and I went a month without a shower. I notified Ms Budd on several occasions but she would not get back to me. New problems occur with now with new mental health issues. If I refused pee would be thrown on me by both correctional officers.

D Who did what to you -

1 Dr Cassidy gave me the wrong medication for my mental health issues And it was the wrong kind so After telling her about the problem I refused to take it so Dr Cassidy along with the LT would put me in the restraint chair and force me to take the medication not on my own I suffer from the medications but I develop ~~real~~ symptoms

2 Ms Budd - I had face to face conversation with Ms Budd telling her what happen to me about the restraint chair and how both correctional officers would force me to take my medication by strapping me to the ~~bed~~ bed the chair. But she ignored me by not getting

3 John Doe - strapped me in the restraint chair and would force me to take the medication making my wrist hurt and he would throw pee on me and would deny me shower's and food without me taking my medication

4 John Doe - would strap me to the bed and force medication down my throat by stuffing his fist physically in my mouth And with the help of the LT would help him by pouring water on me when I refused to take the medication

5 Lt John Doe - would force me in the restraint chair and force medication into my mouth And if I refused he would command two corre

tional officers to strap me to the bed and force the medication in my mouth and I refused again. Pee would be thrown on me and they would deny me food and showers for about 2 months. I filed several grievances from 2019 through 2020. But no response. I even talked to Canslers at Sci-Chester. No response. I wrote grievance when I was at Bucks County Correctional facility. NO response.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a), requires that “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

No

Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

No

Do not know

If yes, which claim(s)?

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

- E. If you did file a grievance:

1. Where did you file the grievance?

Bucks county corrections/ facility

2. What did you claim in your grievance? *About being strapped in the restraint chair about my spinal injury also about me being given the wrong medication*
-

3. What was the result, if any?

Nothing at all

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

Appealed to highest level

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

Yes
 No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes
 No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes
 No

If no, give the approximate date of disposition.

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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 Yes No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s)

Bucks County (correctional) facility

Defendant(s)

NA

2. Court (*if federal court, name the district; if state court, name the county and State*)

Federal Philadelphia

3. Docket or index number

NA

4. Name of Judge assigned to your case

NA

5. Approximate date of filing lawsuit

2017

6. Is the case still pending?

 Yes No

If no, give the approximate date of disposition

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)

settlement

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 2-22-2021

Signature of Plaintiff



Printed Name of Plaintiff

Ishmael Burk

Prison Identification #

NH0208

Prison Address

SCI Chester 500 F wth st

Chester

City

PA

19013

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

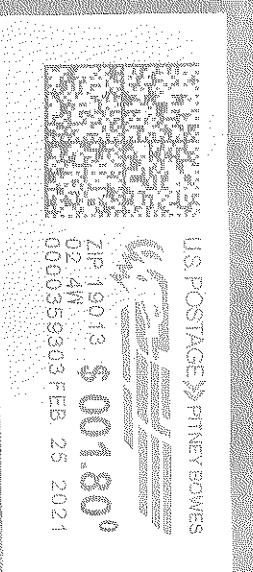
Zip Code

Telephone Number

E-mail Address

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601 Market Street
Room 2609
Philadelphia PA 19106



Legal Mail